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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,616	02/10/2004	Howard Jason Harrison	81328.0003	3389

29693 7590 11/23/2005
WILEY, REIN & FIELDING, LLP
ATTN: PATENT ADMINISTRATION
1776 K. STREET N.W.
WASHINGTON, DC 20006

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/774,616	Applicant(s) HARRISON ET AL.	
	Examiner Tan Le	Art Unit 3632	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 9/19/05 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.




ANITA KING
PRIMARY EXAMINER

Continuation of 10. Other (including any explanation in support of the above items): Appellants's brief fails to comply with the requirement set forth in 37 CFR 41.37 (c) which requires that a brief must contain the following items: "Evidence Appendix" and "Related proceedings appendix". These items must present after the "claims appendix".

Item I fails to point out the names of inventors, Item I should be rewritten as follows: Howard Jason Harrison, et al., as Appellants, are currently the real party in interest.

Under item IV, at least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of such amendment.

Under item V, the Brief fails to provide a concise explanation of the subject matter defined in each of the independent claims involved in the appeal.

Under item VI, based upon the arguments Applicant have presented, it should be rewritten under item VI as follows: Whether the subject matter of claims 1-2,6, 7-8 and 12 is met or anticipated by the patent to Aliosi (U.S. 6, 309,016) under 35 U.S.C. 102(b).

Under " , Claims Appendix"-only a copy of the claims involved in the appeal. "canceled claims" must not be presented. Also please note that under Item VII "Argument", any claim(s) argued separately should be placed under a subheading. When multiple claims subject to the same ground of rejection are argued as a group, the board may select a single claim from the group to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of selected claim alone.

Applicants are respectfully urged to fully comply with the new rules of practice before the Board of Patent Appeals and Interferences effective September 13, 2004 in 1286 OG 21 and 69 Fed. Reg. 49959 (August 12, 2004)..